UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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| JOEL LAVEL ROBINSON and J.R.'S LEGAL SERVICES,<br><br>Plaintiffs,<br><br>v.<br><br>WILLIAM MCCOOL, ANNETTE HAYES, and JUDGE RONALD B. LEIGHTON,<br><br>Defendants. | Case No. C16-441-RSM<br><br>ORDER DENYING PLAINTIFFS' MOTION TO EXTEND TIME AND ORDER OF DISMISSAL |

The first matter before the Court is Plaintiffs' Motion to Extend Time to File Order to Show Cause, Dkt. #12. On August 26, 2016, the Court issued its Second Order to Show Cause ordering Plaintiffs to file a Response showing proper service in this matter within fourteen days. Dkt. #10 at 2. Fourteen days passed without a Response. On September 16, 2016, the Court received the instant Motion from Plaintiffs, dated September 13, 2016—well after the deadline. Plaintiffs' single-page Motion states only that he requests the extension "in the futherness (sic) of justice, based on factors that the Plaintiff has had two deaths in the family." Dkt. #12 at 1. Plaintiffs request a 30-day extension. *Id.*

A motion for relief from a deadline should, whenever possible, be filed sufficiently in advance of the deadline to allow the court to rule on the motion prior to the deadline. LCR 7(j).

Parties should not assume that the motion will be granted and must comply with the existing deadline unless the court orders otherwise. *Id.* The local rule contemplates the filing of stipulated motions for "true, unforeseen emergenc[ies]." *Id*.

The Court finds that Plaintiffs have failed to respond to the Court's Second Order to Show Cause within the time prescribed by the Court, and failed to request relief from the deadline in advance. Although the Court is sensitive to the loss of Plaintiff's family members, Plaintiffs have provided insufficient detail to find that a "true, unforeseen emergency" prevented Plaintiffs from responding to the Court's Order before the deadline or filing this Motion before the deadline. Accordingly, the Court will deny Plaintiffs' Motion.

The Second matter comes before the Court *sua sponte*. The Court will briefly summarize the few facts of this case. On March 29, 2016, Plaintiffs Joel Lavel Robinson and J.R.'s Legal Services filed a Complaint in this matter. Dkt. #1. On April 1, 2016, Plaintiffs filed a Proof of Service of Summons on each of the three Defendants in this matter. Dkt. #5. Defendants in this case appear to be officers or employees of the United States sued in their official capacity and/or sued individually. *See* Dkt. #1. There has been no appearance on behalf of Defendants, or any action taken by the parties in this case since April of 2016. Accordingly, the Court issued an Order to Show Cause on August 11, 2016, ordering Plaintiff to explain why the particular service requirements of Federal Rule of Civil Procedure 4(i) have been satisfied in this matter and why the Court should allow Plaintiffs additional time to properly serve Defendants. Dkt. #8. On August 23, 2016, Plaintiffs provided the same "Proof of Service" already submitted, showing service on Joe Whiteley for the Honorable Judge Ronald B. Leighton, Sandra Bowers for Annette Hayes of the U.S. Attorney's Office, and "D.J. receptionist/clerk" for William McCool of the U.S. District Court Clerk's Office. *See* Dkt. #9 at 3-5; Dkt. #5; Dkt. #5-1; Dkt. #5-2. Plaintiffs provided no further explanation of their attempts at service or evidence of service. On August 26, 2016, The Court found that Plaintiffs had failed to properly serve Defendants under Rule 4(i). Dkt. #10. This rule requires Plaintiffs to, among other things, serve the United States itself in addition to the individual officers or employees of the United States. *See* Fed. R. Civ. P. 4(i)(2); Fed. R. Civ. P. 4(i)(3); Fed. R. Civ. P. 4(i)(1)(B). This service must be accomplished by sending a copy of the Summons and Complaint to the Attorney General of the United States at Washington, D.C. *Id.* Accordingly, the Court issued its Second Order to Show Cause, and Plaintiff failed to respond. *See supra*.

"If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice… or order that service be made within a specified time." Fed. R. Civ. P. 4(m). The Court must allow a reasonable time to cure failure of service under the requirements of Rule 4(i). Fed. R. Civ. P. 4(i)(4).

The Court finds that Plaintiffs have failed to properly serve all of the Defendants in this case within 90 days after the Complaint was filed. The Court finds that it has given Plaintiffs substantial notice and opportunity to be heard on this matter. Plaintiffs have been allowed more than a reasonable amount of time to cure failure of service. Following Rule 4(m), the Court will *sua sponte* dismiss this action without prejudice.

Accordingly, the Court hereby finds and ORDERS:

(1) This matter is DISMISSED.

(2) This case is now CLOSED.

(3) The Clerk shall send a copy of this Order to Plaintiffs at PO BOX 88832 SEATTLE, WA 98138.

DATED this 20 day of September, 2016.

RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE